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BEFORE THE
FEDERAL COMMUNICATION COMMISSION
WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF

PERFORMANCE MEASURES AND REPORTING)	CC DOCKET NO. 98-56
REQUIREMENTS FOR OPERATIONS)	RM-9101
SUPPORT SYSTEMS, INTERCONNECTION,)	
AND OPERATOR SERVICES AND DIRECTORY)	
ASSISTANCE)	

REPLY OF NETWORK ACCESS SOLUTIONS, INC.

The FCC should not exempt LECs from the duty to measure the amount of time it takes to respond to inquiries about the availability of xDSL-compatible loops since an exemption from that obligation is not warranted under the very rationale that supposedly supports the exemption. In their opening comments, a few LECs ask the Commission to exempt them from a requirement to track their performance in providing OSS functions supplied manually based on the assumption that the LEC competitor who relies on the LEC to provide an OSS function manually could have obtained that function electronically via the LEC's on-line database but voluntarily chose not to do so.^{1/} But this assumption does not apply in the case of providing information about xDSL-compatible loop availability. In order to obtain that information, LEC competitors have no choice but to rely on

1/ GTE Comments at 6; Ameritech Comments at 20.

LECs to obtain the information by manual means since LECs do not supply xDSL loop availability information on an electronic database as we explained in our opening comments.^{2/}

Not only should LECs track the time it takes to respond to inquiries about the availability of xDSL-compatible loops, they also should measure separately the time it takes to respond to xDSL-compatible loop inquiries and the time it takes to respond to other loop availability inquiries as everyone commenting on this issue agrees.^{3/} Separate measurements are necessary in order to avoid masking discrimination in responding to xDSL-compatible loop availability inquiries as SBC explains:

“[S]ince it is necessary to evaluate [xDSL-compatible] facility availability manually...[t]he time required to complete this assessment could vary significantly...[from other facility availability inquiries], rendering any data comparisons meaningless.”^{4/}

The FCC should reject the proposal that it rely on a LEC competitor to negotiate OSS performance measurements as part of its interconnection agreement rather than adopt minimum OSS performance measurements applicable to all LECs.^{5/} This recommendation should be rejected since a LEC competitor lacks the leverage necessary to negotiate meaningful performance measurements. As a result, LECs typically include in their interconnection agreements an exemption from any requirement to measure the time it takes to respond to xDSL-compatible loop availability inquiries

2/ Network Access Solutions Comments at 3-4.

3/ ALTS Comments at 8-9; AT&T Comments at 26; WorldCom Comments at 13; Allegiance Comments at 14; Network Access Solutions Comments at 3-4..

4/ SBC Comments at 5.

5/ US West Comments at 7; Ameritech Comments at 9-12; SBC Comments at 2.

or to install xDSL-compatible loops since most LECs have not yet established procedures for determining which loops are xDSL-compatible.^{6/}

The Commission likewise should reject Ameritech's proposal to exempt a LEC from the duty to measure its responsiveness in providing OSS to an affiliate in connection with the affiliate's provision of a telecommunications service other than local exchange service.^{7/} Adopting this proposal would be inconsistent with FCC policy and Section 251 of the Act, both of which require that OSS be provided on nondiscriminatory terms to any party in connection with that party's offering of any telecommunications service. Adopting the proposal also would be tantamount to exempting many LECs from the obligation to measure their responsiveness in providing OSS to themselves for provision of xDSL access service on the same terms as they provide OSS to their competitors since (i) xDSL access service is telecommunications service but not local exchange service, and (ii) many LECs, including Ameritech, provide (or intend to provide) xDSL access service through an affiliate rather than through the LEC.

6/ For example, Bell Atlantic's standard interconnection agreement contains a provision stating that the company is obligated to meet loop installation deadlines only for "ULLs offered by Bell Atlantic as of the date of this agreement." Bell Atlantic does not yet offer xDSL-compatible ULLs given that it has not finalized procedures for determining which loops are xDSL-compatible.

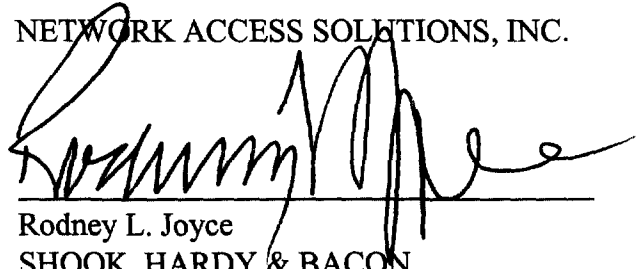
7/ Ameritech Comments at 19-20.

CONCLUSION

The Commission should amend its proposed OSS performance measurements in the manner set forth in our opening comments. The agency also should adopt the performance standards described in those comments.

Respectfully submitted,

NETWORK ACCESS SOLUTIONS, INC.

A handwritten signature in black ink, appearing to read "Rodney L. Joyce", is written over a horizontal line.

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July 6, 1998

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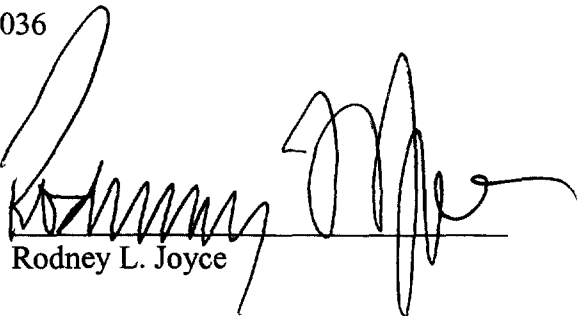
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